REMARKS

Status of the Claims

Upon entry of the amendment above, claims 1-20 will be pending, claims 1 and 17 being independent.

Summary of the Office Action

The specification is objected to with regard to with regard to a number of matters set forth in Section 5 of the Office action, beginning on page 2 thereof.

The drawings are objected to under 37 CFR §1.84(p)(5) for not including reference numerals that are mentioned in the specification.

The drawings are additionally objected to under 37 CFR §1.84(p)(5) for including reference numerals that are not mentioned in the specification.

The drawings are further objected to under 37 CFR §1.83(a) for allegedly not illustrating features of the invention that are recited in the claims.

Claims 1-16 are rejected under 35 USC §112, first paragraph, for allegedly failing to comply with the written description requirement thereof.

Claims 1-16 are rejected under 35 USC §112, second paragraph, for being indefinite.

Response to the Office Action

A. Summary of Amendment and Comments Relating to the Invention

In this reply, Applicants have responded to all of the grounds of objection and rejection, which include amendments to the specification, drawings, and claim 1.

As explained in greater detail below, and consistent with the original disclosure, the invention is directed to an easily disconnectable retaining system for a boot, *i.e.*, a binding device, for connection with any of various sports apparatuses, whether used for snowboarding, various types of skiing (including alpine, mountain, cross-country,

telemark, *e.g.*), roller or ice skating, or even snowshoeing, in which the boot is permitted to move between relative high and low positions. While the invention is directed to such a binding system, the manner by which the binding is connected to the sports apparatus (such as a ski, snowboard, skate) can take any of various forms. Examples of such forms known in the various arts are shown in Figs. 8-11.

Figs. 1-4 illustrate a schematic depiction of a retaining system according to a first embodiment of the invention, whereas Figs. 5-7 illustrate a retaining system according to a second embodiment of the invention (non-elected according to a restriction requirement previously imposed).

As explained in the specification and further commented upon below, the embodiment of Figs. 1-4 illustrates in detail how a boot can be easily fastened and unfastened, the manner by which the base of the binding is connected to the sports apparatus is not depicted, although it can be connected by means known to those skilled in the art, including the connections illustrated in Figs. 8-11.

B. Withdrawal of Objections to the Specification

In view of the amendments made to the specification, above, and in view of the comments which follow, reconsideration and withdrawal of the objections to the specification are kindly requested.

Applicants respond, below, by referencing Sections A, B1, B2, and C1-C11 of the objection from pages 2-4 of the Office action.

1. Section A

As requested, Applicants have indicated that their parent application (No. 10/054,913) is now abandoned.

2. Section B1

In this section, the Office action includes comments that it is not readily apparent how Figs. 8-11 are "incorporated" into the invention of Figs. 1-4. Further, it is stated that

"the 'linkage member' reference number 14 of Figures 1-4 appears to be fixed to the base of the 'sports article,' whereas the linkage member 130 of Figs. 8, 9, and the linkage member 203 of Figs. 10, 11, appear to be fixed to the boot and not to their respective sports articles 100, 214.

In this regard, the linkage member 14 of Figs. 1-4 is not "fixed" to the base of the binding in the sense of permanently fixed or fixed against movement. Instead, as explained in paragraph 0018 of the original disclosure, the linkage member 14 can be connected to the base 12 by means of a fixed pivot connection, such as pivot 80A of Figs. 5-7, or by means of various types of connecting rods or linkages shown, for example, in the embodiment of Figs. 8, 9 (see connecting elements 122, 140) and in the embodiment of Figs. 10, 11 (see connecting rods 216-219).

More specifically, whereas the prior art Figs. 8, 9 and 10, 11 illustrate the linkage members somewhat permanently fastened to the soles of the boots, the present invention provides a convenient device by which a boot can be fastened and unfastened from such binding systems. An important point being made here is that the binding system of the invention includes a fastening and unfastening mechanism can be adapted for use in previously known, as well as non-previously known, binding systems, which binding systems have no described in specificity the manner by which a boot is to be fastened to the linkage members (see, *e.g.*, Applicants' specification, paragraphs 0010 and 0011).

For the purpose of emphasis and clarification, in the Replacement Sheets of drawing attached hereto, Applicants have relabeled original Fig. 3 as Fig. 3a, showing the boot in the "low position" specified in claim 1, and they have added new Fig. 3b, otherwise a duplicate of Fig. 3a, but showing the boot in the "high position" specified in claim 1.

Lastly, with reference again to the comments in Section B1 of the objection to the specification, on page 3 of the Office action, the linkage member 14 of Figs. 1-4 is disclosed as being removably connected to the boot (see Figs. 3a, 3b), the base 12 of the binding device of that embodiment being adapted to be fixed to the sports article (as explained in paragraph 0016 of Applicants' specification). Similarly, and in contrast to the aforementioned comments in Section B1 of the objection, the linkage member 130 of Figs. 8, 9 is fixed to the boot as well as to the sports article 100, and the linkage member 203 of Figs. 10, 11 is fixed to the boot as well as to the sports article 214.

In view of the amendment to the drawing and foregoing comments, reconsideration and withdrawal of the objection made in Section B1 is requested.

3. Section B2

In this section, the Office action objects to paragraph 0032 for referring to boot 11 in Figs. 5-7, whereas Figs. 5-7 fail to illustrate reference number 11.

In the Replacement Sheets of drawing, in response to this objection, reference numeral 2 in Fig. 6 has been changed to "11." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

4. Section C1

In this section, the Office action objects to the use of inconsistent terminology to identify reference elements 31, 32 in various paragraphs of the specification.

In the various occurrences in the specification, in response to this objection, Applicants have now consistently identified reference elements 31, 32 as front and rear "anchoring elements." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

5. Section C2

In this section, the Office action objects to paragraphs 0022 and 0023 for referring to element 40 differently.

In response, Applicants have amended paragraphs 0022 and 0023 to refer to element 40 as "an inclined ramp surface." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

6. Section C3

In this section, the Office action objects to paragraphs 0032 and 0033 for referring to element 3 differently.

In response, Applicants have amended paragraph 0033 so that both it and paragraph 0032 refer to element 3 as "a sports apparatus." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

7. Section C4

In this section, the Office action objects to the use of inconsistent terminology to identify reference element 4 in paragraphs 0032, 0038, and 0048 of the specification.

In response, Applicants have amended paragraphs 0032, 0038, and 0048 to refer to element 4 as an "anchoring element." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

8. Section C5

In this section, the Office action objects to the use of both "axis" and "axle" in paragraph 0033 for identifying reference numeral 80A.

In response, Applicants have amended paragraph 0033 to refer to element 80A as an "axis" in both occurrences. Accordingly, reconsideration and withdrawal of the objection is kindly requested.

9. Section C6

In this section, the Office action objects to paragraphs 0033 and 0040 for referring to element 24A differently.

In response, Applicants have amended paragraphs 0033 and 0040 so element 24A is referred to as an "anchoring element" in both occurrences. Accordingly, reconsideration and withdrawal of the objection is kindly requested.

10. Section C7

In this section, the Office action objects to paragraphs 0036 and 0038 for referring to element 17A differently.

In response, Applicants have amended paragraph 0038 so that both it and paragraph 0036 refer to element 17A as "a second groove portion." Accordingly, reconsideration and withdrawal of the objection is kindly requested.

11. Section C8

In this section, the Office action objects to paragraphs 0036, 0039, and 0047 for differently referring to elements 15A and 15a.

In response, by amendment, all occurrences of reference 15A refer to a "movable jaw" and all occurrences of reference 15a refer to a "nose," the latter being a part of the movable jaw, as explained in paragraph 0039. In view of the amendment, reconsideration and withdrawal of the objection is kindly requested.

12. Section C9

In this section, the Office action objects to paragraphs 0036, 0039, and 0040 for differently referring to elements 20A, and comments that element 25A is referred to as an "elastic return member."

In response, by amendment, Applicants have ensured that all occurrences of reference 20A refer to "an elastic return member." Further, although element 25A is also referred to as an "elastic return member" in paragraph 0040, it is there explained that elastic return member 25A (see Figs. 5, 6) is distinct from the elastic return member 20A (see Fig. 7). In view of the amendment, reconsideration and withdrawal of the objection is kindly requested.

13. Section C10

In this section, the Office action objects to paragraphs 0040 and 0046 for differently referring to element 25A.

In response, by amendment, Applicants have ensured that element 25A has now been consistently referred to as an "elastic return member." In view of the amendment, reconsideration and withdrawal of the objection is kindly requested.

14. Section C11

In this section, the Office action objects to paragraphs 0040 and 0045 for differently referring to elements F4.

In response, by amendment, Applicants have ensured that each occurrence of element F4 is referred to as a "direction." In view of the amendment, reconsideration and withdrawal of the objection is kindly requested.

C. Withdrawal of Objections to the Drawing

In view of the amendments made to the drawings, further explained below in connection with the attached Replacement Sheets, together with the following remarks, reconsideration and withdrawal of the objections to the drawings are kindly requested.

1. Objection Under 37 CFR §1.84(p)(5)

In Section 6 of the Office action, on page 5, the drawings are objected to for allegedly not including reference numerals 18', 26A, and 37A.

In response, Fig. 1 has been amended by having reference numeral 18' added in the form of a broken line showing of a torsion spring positioned around axis 18, as mentioned in paragraph 0021.

Reference numerals 26A and 37A are shown in original Figs. 6 and in Figs. 5-7, respectively.

In view of the amendment to the drawing, and the presence of reference numerals 26A and 37A, reconsideration and withdrawal of this objection to the drawings is kindly requested.

2. Objection Under 37 CFR §1.84(p)(5)

In Section 7 of the Office action, on page 5, the drawings are objected to for including reference numerals 21A, 22A, 29, 31A, and 39, which are not mentioned in the specification.

In response, reference numerals 21A, 22A, 29, and 39 have been removed from the drawings.

Reference numeral 31A appears in paragraph 0042 of the specification and, therefore, has been retained in the drawing.

In view of the amendment to the drawing and the presence of reference numeral 31A in the specification, reconsideration and withdrawal of this objection to the drawings is kindly requested.

3. Objection Under 37 CFR §1.83(a)

In Section 8 of the Office action, on page 5, the drawings are objected to for allegedly not including certain features of the claims. For reasons given below, reconsideration and withdrawal of this objection is requested.

a. Linkage Member Movable Between Low and High Positions, as in Claims 1 and 12

First, regarding the linkage member being movable with respect to the sports apparatus between a low position and a high position, as recited in claims 1 and 12, Applicants have added new Fig. 3b to depict the "high position," consistent with the original disclosure, including paragraph 0018 of the specification. In addition, paragraphs 0015 and 0016 have been suitably amended to refer to Fig. 3b. No prohibited new matter has been added.

As explained above, the linkage member 14 of Figs. 1-4 is not "fixed" to the base of the binding in the sense of permanently fixed or fixed against movement. Instead, as explained in paragraph 0018 of the original disclosure, the linkage member 14 can be connected to the base 12 by means of a fixed pivot connection, such as pivot 80A of Figs. 5-7, or by means of various types of connecting rods or linkages shown, for example, in the embodiment of Figs. 8, 9 (see connecting elements 122, 140) and in the embodiment of Figs. 10, 11 (see connecting rods 216-219).

New Fig. 3b, therefore, shows in a schematic way, *i.e.*, in a way that is intended to encompass a variety of connections, that the linkage member can be movably mounted relative to the base to a "high" position, Fig. 3a showing the linkage member in the "low" position.

Further to the foregoing comments, Applicants direct attention to the provisions of 37 CFR §1.83(b) where it is explained that, as in the case of the instant application, "[w]hen the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith."

That is, in Figs. 1-4, Applicants show the "improved" portion of a binding according to the invention and, in Figs. 8-11, Applicants show the so-called "old structure." Applicants submit that one skilled in the art of the field of endeavor of the invention of the instant application would readily understand the connection between the "improved" and the "old" structures.

Further, and with reference to 37 CFR §1.83(a), if the Examiner were to find Figs. 1-4 of the drawings to be better presented if the linkage element 14 were labeled, *i.e.*, within the confines of the depicted element itself in Figs. 1, 2, 3a, 3b, 4, as "linkage

element movably connected to sports article," that is, in the form of a "labeled rectangular box" (in the words of §1.83(a)), Applicants would readily do so.

In any event, in view of the amendment to the drawing (*i.e.*, the addition of Fig. 3b), and the foregoing comments, reconsideration and withdrawal of the objection under 37 CFR §1.83(a) is kindly requested.

b. Front Retaining System Being "Biased," as in Claim 6

In the amendment to Fig. 1, as shown in the attached Replacement Sheet, reference numeral 18' has been added, as well as a schematic depiction of a torsion spring, as described in paragraph 0021 of the specification of the instant application, in response to the objection to the drawing for not illustrating a front retaining system being "biased," as recited in claim 6.

In addition, original Fig. 7 illustrates elastic return member 20A, which is described in paragraphs 0039 and 0040 of the specification.

in view of the amendment, reconsideration and withdrawal of the objection under 37 CFR §1.83(a) is kindly requested.

c. Connecting Rod, as in Claim 11

In response to the objection under 37 CFR §1.83(a) for allegedly not illustrating a "connecting rod," as specified in claim 11, Applicants direct attention to element 122 of Figs. 8, 9 and elements 216-219 of Figs. 10, 11.

Accordingly, the original drawing shows such connecting rod and, therefore, reconsideration and withdrawal of the objection under 37 CFR §1.83(a) is kindly requested.

d. Convex Surface, as in Claim 12

In response to the objection under 37 CFR §1.83(a) for allegedly not illustrating a "convex surface," as specified in claim 12, Applicants direct attention to element 134 of Figs. 8, 9.

Accordingly, the original drawing shows such convex surface and, therefore, reconsideration and withdrawal of the objection under 37 CFR §1.83(a) is kindly requested.

e. Linkage Member Articulated With Respect to a Sports Article, as in Claim 13

In response to the objection under 37 CFR §1.83(a) for allegedly not illustrating a linkage member articulated with respect to a sports article as recited in claim 13, Applicants direct attention to linkage member 14 of Figs. 1-4, which, as explained in paragraph 0018 of the specification, can be articulated with respect to a sports article about a fixed transverse axis like that shown in Figs. 5-7 (axis 80A), for example.

Accordingly, the original drawing shows a fixed axis about which the linkage member 14 can be articulated and, therefore, reconsideration and withdrawal of the objection under 37 CFR §1.83(a) is kindly requested.

4. Figs. 8-11 to be Labeled "Prior Art"

In Section 9 of the Office action, on page 5, the Examiner requires that Figs. 8-11 be labeled "Prior Art."

In response, in the Replacement Sheets, each of Figs. 8-11has been labeled "Prior Art." Accordingly, withdrawal of the requirement is requested.

5. Reference Numeral 15A in Figs. 6 and 7

In Section 10 of the Office action, on page 6, the Examiner remarks that "[i]t is unclear why reference number 15A on Figure 6 does not appear to resemble reference number 15A on Figure 7.

In response, Applicants direct attention to Figs. 6 and 7 being two sectional views taken along two different parallel planes (see Fig. 5), which is believed to account for any significant difference in the appearance of element 15A.

D. Withdrawal of Rejection Under 35 USC §112, First Paragraph

Applicants respectfully traverse the rejection of their claims under 35 USC §112, first paragraph, for allegedly failing to comply with the written description requirement thereof.

The rejection posits that there is inadequate written description for the limitation in claim 1 of "... a linkage element movable with respect to the sports article between a low position and a high position ...."

Support for the cited limitation can be found at least in original paragraph 0018 of the specification of the instant application, coupled with the various drawing figures.

Paragraph (C) on page 7 of the Office action evidences a misunderstanding of the claimed invention, which contrasts with Applicants' description. Specifically, Paragraph (C) includes the statement that "the 'linkage member' reference numeral 14 of Figs. 1-4 appears to be fixed to the base of a 'sports article.'"

Specifically, paragraph 0018, lines 5-9, includes the statement "this linkage member 14 can be connected to the base by a mere articulation, as will be described with reference to FIGS. 5 to 7, or by a more complex mechanism, such as those described in the documents previously cited and which have, for example, at least one connecting rod connecting the linkage member 14 to the base 12."

Therefore, Applicants have explicit support for the cited limitation, particularly inasmuch as the articulation of the linkage member provides for movement between high and low positions.

Further, paragraph 0018 describes how the linkage member of the invention can be connected for movement relative to the sports article in the manner of linkage member 130 of Figs. 8 and 9, between high and low positions.

Still further, and with regard to the comments appearing in paragraph (C) of the rejection, linkage member 130 of Applicants' Figs. 8 and 9 is connected to ***both*** the boot and the sports article 100 (the latter via the base 111), as would be the linkage member 14 if it were to incorporate the mechanism of Figs. 8 and 9.

Again, as explained above, in known mechanisms, like that of Figs. 8, 9 and like that of Figs. 10, 11, the boot is connected to a linkage member, but not by any easy/convenient fastening and unfastening device like that of Applicants' invention. Instead, the boot is affixed without the provision of a removable latch, for example.

In this regard, Applicants have attached four sheets, each identified as an "Annotated Drawing," in which the linkage members of Figs. 3a, Figs. 5,6, Figs. 8, 9, and Figs. 10, 11 are highlighted in yellow. The invention of Applicants' Figs. 1-4 includes a linkage member 14 which could be connected to the base 12, as explained in paragraphs 0016-0018, for movement between low and high positions, by being connected with a fixed pivot/articulation like pivot 80A of Figs. 5, 6, or by being connected with a connecting rod 122 and rubber band 140 of Figs. 8, 9, or by being connected with a plurality of connecting rods 216-219 of Figs. 10, 11. But unlike Applicants' invention, which includes front and rear retaining systems (see elements 15 and 23, for example), the devices of Figs. 8, 9 and Figs. 10, 11 provide no such systems.

Instead, as the Examiner has noticed, in the devices of Figs. 8, 9 and Figs. 10, 11, the linkage members 100 and 203, respectively, are ***fixed*** to their respective boots.

Near the bottom of page 7 of the Office action, still within paragraph (C) of the subject rejection, the Examiner notes that "a purpose of the instant invention, as best

understood, is to allow easy 'fastening' and 'unfastening' of the boot to the linkage member." The immediately succeeding sentence, perhaps, highlights an apparent misunderstanding of a portion of Applicants' disclosure. Specifically, the Examiner next remarks "[i]f the boot is already fastened to the linkage member, per Figs. 8-11, then it is not clear how Figures 1-4 would be 'applicable' to Figures 8-11."

In response to this remark, Applicants respectfully request that their paragraph 0018 be reread. *It is not the fastening of the boot to the linkage member for which Applicants have provided Figs. 8, 9 and Figs. 10, 11 from the prior art.* Indeed, such fastening of the boot to the linkage member is part of the claimed invention. Instead, Figs. 8, 9 and Figs. 10, 11 provide examples of how the linkage member can be connected to the sports article. In fact, as explained in paragraph 0010 of the Background of the Invention section of Applicants' specification, "Documents WO 00/13755, WO 96/37269, U.S. Patent No.6,499,761, and U.S. Patent No. 6,113,111 *do not describe in specificity the manner by which the boot is adapted to be fastened to the linkage member*" (emphasis added).

Therefore, to answer the Examiner's question in paragraph (B) on page 7 of the Office action, *viz.*, "... it is not considered readily apparent how Figures 8-11 are 'incorporated' into the elected Species I, Figs. 1-4," the devices of Figs. 8, 9 and Figs. 10, 11 are incorporated with respect to the structures used to connect their linkage members to their sports articles

Still further, to answer the Examiner's question at the top of page 8 of the Office action, *viz.*, "it is also not apparent what the convex surface set forth in claim 12 is," the convex surface is element 134, for example, described in Applicants' paragraph 0018 and shown in Figs. 8 and 9 (taken from the aforementioned U.S. Patent No. 6,499,761, the disclosure of which is incorporated by reference in Applicants' specification), which

provides for a "rolling effect" for the linkage member as it moves relative to the sports article 100 between high and low positions, as explained in paragraph 0018.

Lastly, to answer the question posed by the Examiner in the second paragraph on page 8 of the Office action, *viz.*, "it is not apparent what the articulation of the linkage member, as set forth in claim 13 is, or how this is possible ..., " the articulation of claim 13 finds support, for example, in the articulation element 80A in Figs. 5, 6. Specifically, as explained in Applicants' paragraph 0018 of their specification, their linkage member 14 can be articulated relative to the base/sports article "by a mere articulation."

At least for the reasons given above, Applicants submit that they have complied with the written description requirement of 35 USC §112, first paragraph. Accordingly, reconsideration and withdrawal of the rejection is requested.

E. Withdrawal of Rejection Under 35 USC §112, Second Paragraph

Applicants respectfully traverse the rejection of their claims under 35 USC §112, second paragraph, for allegedly being indefinite.

First, Applicants have amended claim 1 to change the occurrences of "linkage element" to "linkage member." Accordingly, withdrawal of the rejection based upon a lack of antecedent basis for the latter expression (mentioned in paragraph (B) of the rejection) is kindly requested.

Second, Applicants request that the rejection be withdrawn with regard to the reasons cited by the Examiner (in paragraph (A) of the rejection) in referencing the rejection under §112, first paragraph. That is, Applicants' linkage member is movable between low and high positions as disclosed at least in paragraph 0018 of their specification.

Third, regarding claim 11, Applicants submit, as explained above, that the limitation "connecting rod" encompasses, for example, a connecting rod like 122 in Fig. 9 or any of the connecting rods 216-219 of Figs. 10, 11. Further, in this regard,

paragraph 0018 of Applicants' specification makes clear that the elected invention of Figs. 1-4 encompasses the structures of Figs. 8, 9 and Figs. 10, 11, *i.e.*, "Examples described below (with reference to FIGS. 8-11) are directed to the manner by which the linkage member 14 can be connected to the base 12 ...."

Fourth, regarding the "convex surface" of claim 12, paragraph 0018 of the specification of the instant application makes clear that the elected invention of Figs. 1-4 encompasses the structures of Figs. 8, 9, which includes convex surface 134.

Fifth, regarding the "articulation" of claim 13, paragraph 0018 of the specification of the instant application makes clear that the elected invention of Figs. 1-4 encompasses the structures of Figs. 5-7, which includes articulation 80A.

In view of the amendment and foregoing remarks, reconsideration and withdrawal of the rejection under 35 USC §112, second paragraph, is requested.

SUMMARY AND CONCLUSION

The grounds of objection and rejection advanced in the Office action have been addressed and are believed to be overcome. Accordingly, reconsideration and allowance are respectfully requested.

A check is enclosed for payment of an extension of fee. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

If it were to be found that an extension of time were necessary to render this reply timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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November 8, 2005
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Attachments: Annotated Drawings (four sheets)
Replacement Sheets of Drawings (six sheets)

AMENDMENT TO THE DRAWING

Please replace the original drawings with the attached six Replacement Sheets of drawing.

In the Remarks section of this amendment Applicants explain the changes made in the Replacement Sheets, in accordance with 37 CFR §1.121(d).

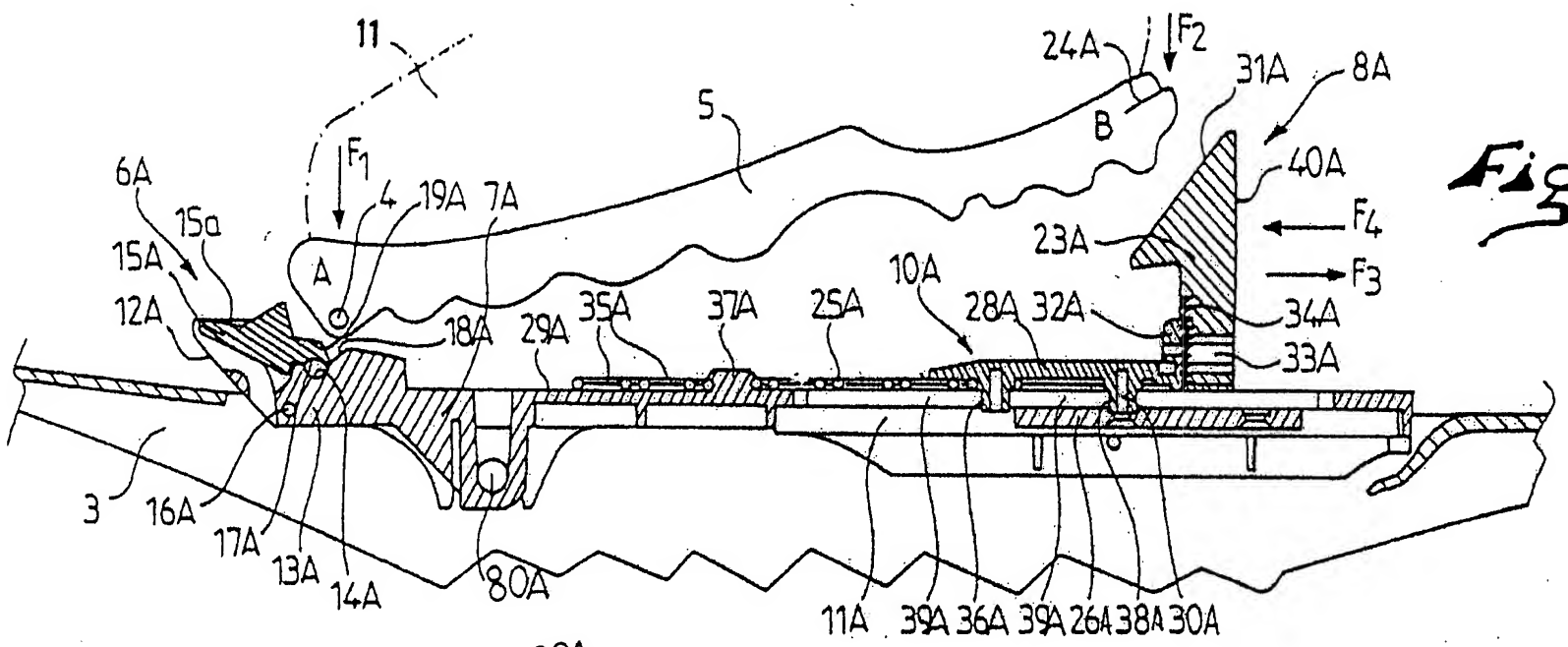


Fig. 6

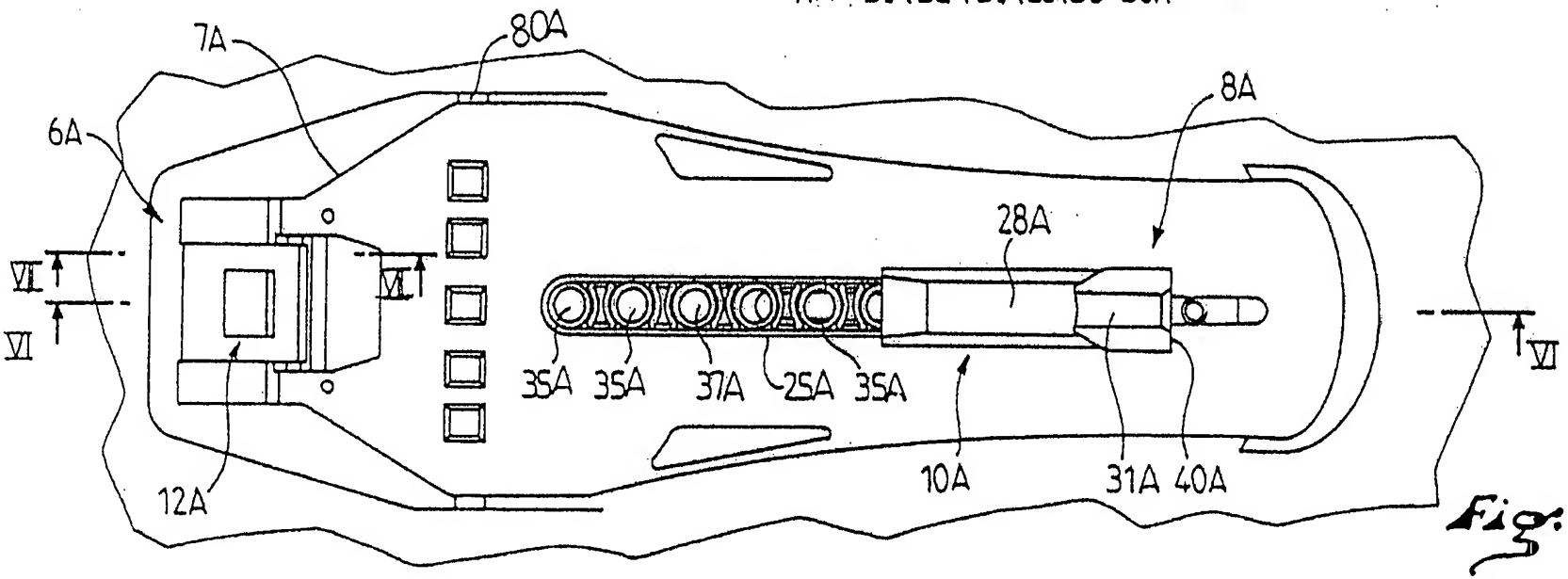


Fig. 5

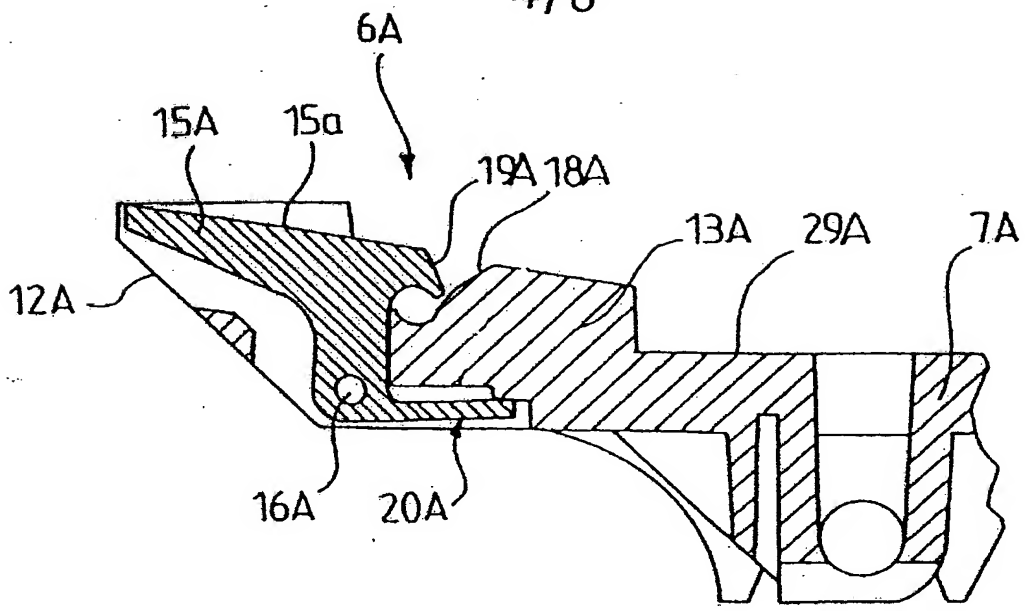


Fig: 7

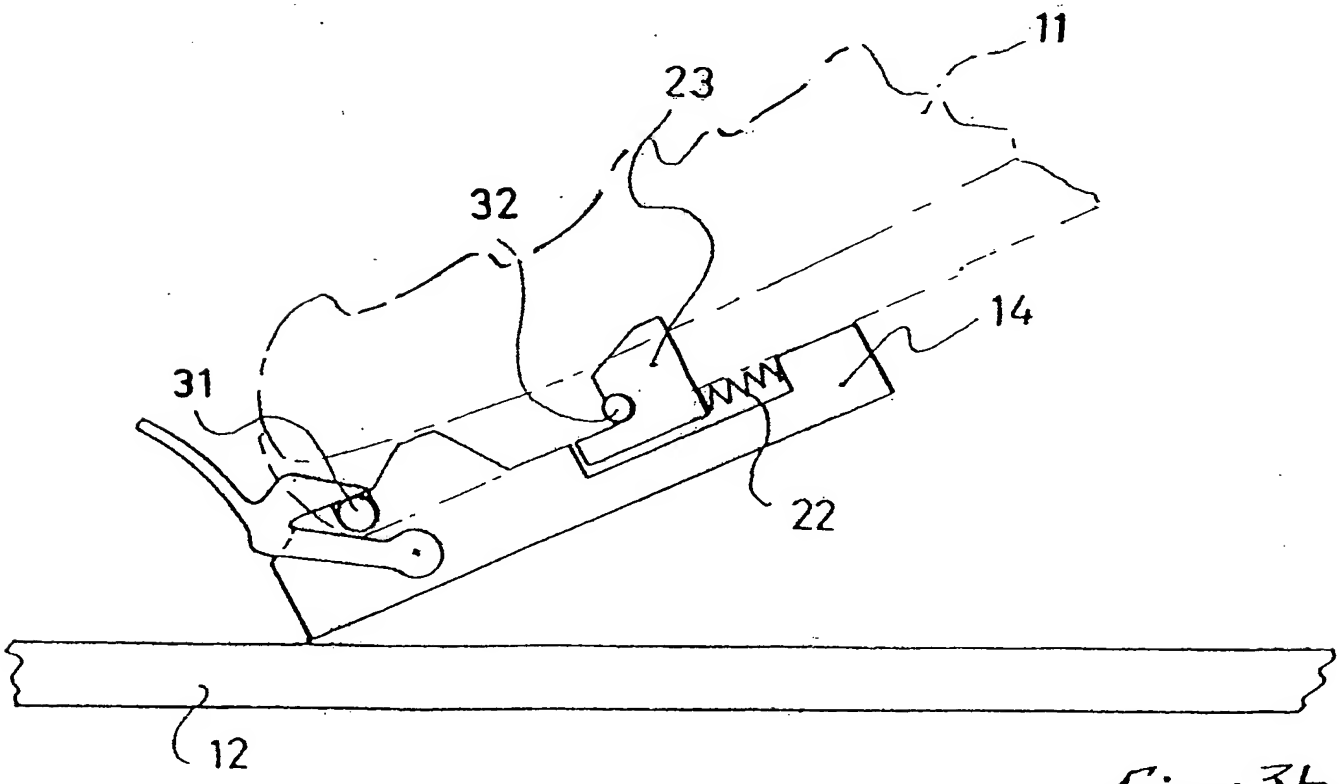
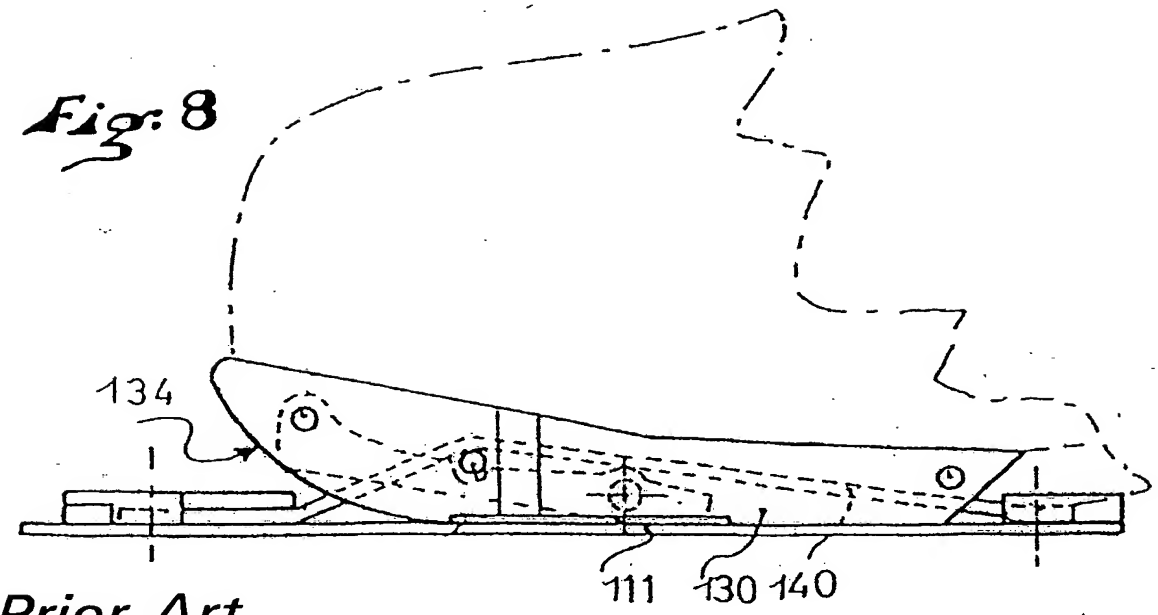


Fig: 3b

Annotated Drawing

Fig: 8



Prior Art

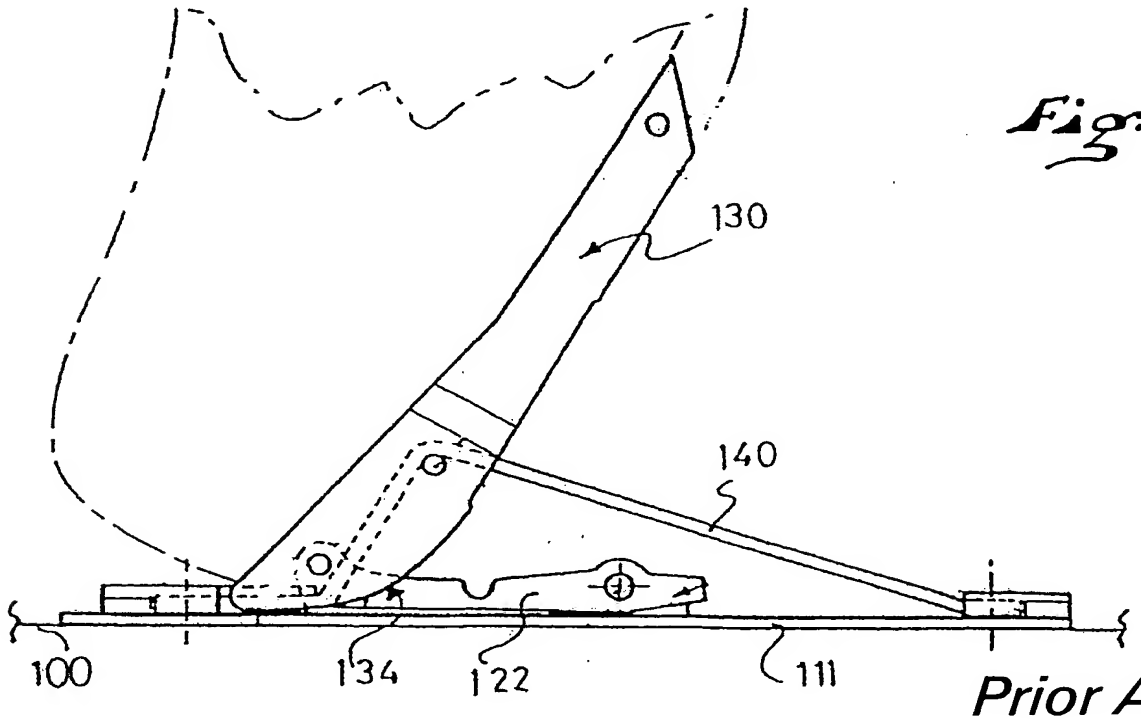


Fig: 9

Prior Art

Annotated Drawing

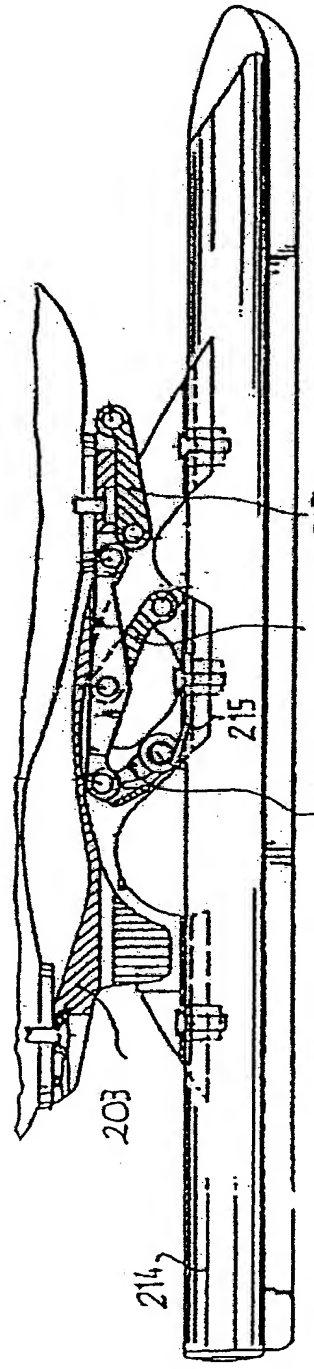


Fig. 10

Prior Art

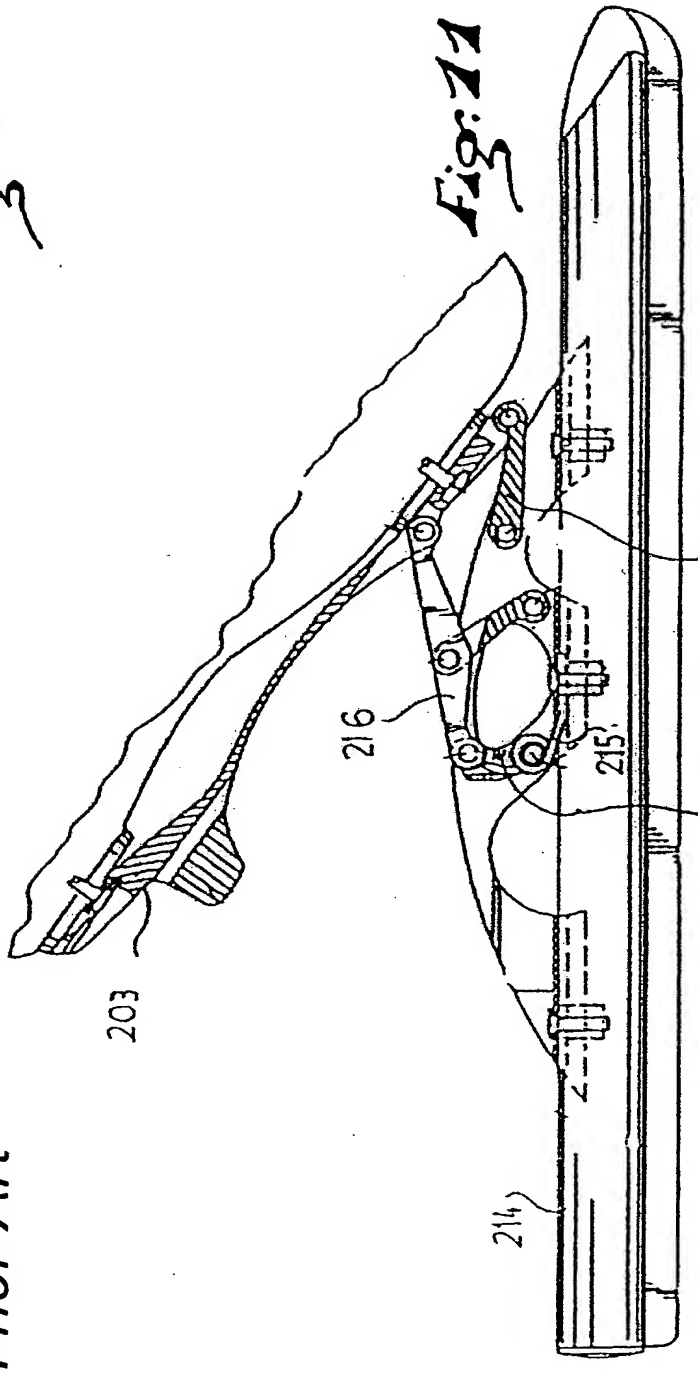


Fig. 11

Prior Art

Annotated Drawing